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F#2011R01681

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UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

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IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

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IN RE REQUEST FROM THE UNITED KINGDOM)
PURSUANT TO THE TREATY BETWEEN THE)
GOVERNMENT OF THE UNITED STATES OF)
AMERICA AND THE GOVERNMENT OF THE UNITED)
KINGDOM OF GREAT BRITAIN AND NORTHERN)
IRELAND ON MUTUAL LEGAL ASSISTANCE IN)
CRIMINAL MATTERS IN THE MATTER OF)
OPERATION LUMPFISH (SIOBHAN CLARKE AND)
OTHERS))
-----X

ROSS, J.

ORDER

Upon application of the United States, and upon review of the Request from the United Kingdom dated September 20, 2011 seeking evidence under the Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Mutual Legal Assistance in Criminal Matters (the "Treaty"), 1997 U.S.T. LEXIS 104, entered into force December 2, 1996, as amended by the Instrument as contemplated by Article 3(2) of the Agreement on Mutual Legal Assistance between the United States of America and the European Union signed 25 June 2003, as to the application of the Treaty between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Mutual Legal Assistance in Criminal Matters signed 6 January 1994, entered into force February 1, 2010, for use in a

criminal investigation, prosecution, or procedure related to the prosecution in the United Kingdom, and the Court having fully considered this matter,

IT IS HEREBY ORDERED, pursuant to the authority conferred by the Treaty and 18 U.S.C. § 3512, as well as this Court's inherent authority, that Nadia Shihata (or a substitute or successor designated by the Office of the United States Attorney) is appointed as commissioner (the "commissioner") of this Court and hereby directed to execute the Treaty Request and to take such steps as are necessary to collect the evidence requested. In doing so, the commissioner:

1. may issue commissioner's subpoenas to be served at any place within the United States on persons (natural and legal) ordering them or their representatives to appear and to testify and produce evidence located within the United States;

2. shall provide notice with respect to the collection of evidence to those persons identified in the Request as parties to whom notice should be given (and no notice to any other party shall be required);

3. shall adopt procedures to collect the evidence requested consistent with its use in the investigation, prosecution or other proceeding in the United Kingdom for which the Secretary of State for the Home Department has requested assistance, which procedures may be specified in the Request or provided by or with the approval of the Secretary of State for the Home Department

under the Treaty;

4. may, in collecting the evidence requested, be accompanied by persons whose presence or participation is authorized by the commissioner, including, without limitation, special agents of the Federal Bureau of Investigation and/or representatives of the United Kingdom who, as authorized or directed by the commissioner, may direct questions to any witness;

5. may seek such further orders of this Court as may be necessary to execute this Request, including orders to show cause why persons served with commissioner's subpoenas who fail to produce evidence should not be held in contempt, and including protective orders to regulate the use of the evidence collected;

6. shall certify and submit the evidence collected to the Office of International Affairs, Criminal Division, U.S. Department of Justice, or as otherwise directed by that Office for transmission to the United Kingdom; and,

7. may provide copies of the evidence collected to persons identified in the Request as parties to whom such copies should be given (and to no other persons).

IT IS FURTHER ORDERED that any person from whom the commissioner seeks to collect evidence may, for good cause shown, oppose the giving of evidence, or the circumstances thereof, by motion timely filed with this Court, a copy of which shall be provided contemporaneously to the commissioner.

IT IS FURTHER ORDERED that no party to whom this order is

disclosed disclose any aspect of this matter, including the fact that it has received a subpoena or has given testimony or evidence in response thereto.

s/Allyne R. Ross

UNITED STATES DISTRICT JUDGE

Dated: October 7, 2011